

## PSFC Executive Committee Conference Call Notes

8.6.14

### **Participants (all via Phone)**

Bob Dach, BIA; Olton Swanson, Corps; Rick Parkin, Carrie Byron, EPA; Mark Carey, FEMA; Sharon Love, FHWA; Elizabeth Babcock, NOAA; Laurie Jenkins and Aaron Roth, NPS; Jennifer Eberlien, Amy Lieb, Linda Ulmer, USFS; Jay Davis, Curtis Tanner, USFWS; Bill Labiosa, Frank Shipley, Michael Tupper, USGS

### **Briefing on 7/16 Federal & Tribal Leaders Meeting**

Rick Parkin: The meeting brought together some regional federal leaders (EPA, NOAA, Corps) with key tribal leaders. The meeting touched on the updated fish consumption rates, shoreline armoring, and a few other topics, but mostly focused on coordinated investments and riparian protections.

Background: We asked our Lead Organizations to place a term and condition in their subawards dealing with adhering to the NMFS riparian buffer table in agricultural areas. At the 7/16 meeting Dennis told the group that the T&C was problematic and that we need more flexibility to implement large projects.

We'd had a number of meetings with NOAA, NRCS and EPA on the T&C. Tribes are not happy but we are steadfast in not continuing to implement the T&C. We are trying to put in place a mechanism to get tribal input on grant decisions. Now working on T&C in actual LO grants saying grant recipients must either be consistent with NOAA buffer table or get input from tribes to inform an EPA-granted exception to T&C. This would be an EPA decision, not a tribal decision to give exceptions.

Elizabeth wondered how this was landing with tribal folks. We have had a number of meetings about this. One was 7/29, one was 8/4. Commission staff and management both want the option to veto projects. They might be OK with us being decision makers if there are quantified standards to apply to. For example, 85% LWD recruitment. This is problematic as there are not many of those kind of quantified criteria that staff could come up with.

We have to get our FY14 grants out now. We don't have time for a lengthy discussion process to come up with quantification. We are going to go forward with this process this year and consider it interim and do a disciplined process to assess next year. Elizabeth said Dale Bambrick may be able to help on developing quantifiable standards, and that she will ensure that Will and other NOAA folks are ready to support this.

EPA's ORD lab in Corvallis has been working on predictive science and models. The VELMA model has ability to predict buffer widths. We may put our ORD folks in contact with Commission. If successful we will bring them up for a formal model on this topic.

Bob Dach asked for some clarification, and Rick said that essentially EPA is saying smaller buffers are OK for funding where flexibility is needed for a larger project.

Jen Eberlien asked what tribes we met with – at the staff level it was Swinomish, Skokomish, Squaxin Island, and on one call there was the addition of the Lummi.

On 8/26 there is a meeting between EPA and the Commission's Environmental Policy Committee to further discuss this. We will also spend time in that meeting on current funding model (LOs). These were

5 year grants and 2015 is the last year of that so we need to come up with allocation model for 2016 and beyond. Have been working with PSP on this, will have meetings on this coming up. That is primary reason for meeting but will also probably discuss riparian issues as well.

\* Carrie will make sure PSFC gets notice of funding model meetings

### **Briefing on 7/21 Deputies' Meeting**

Elizabeth Babcock: The key focus of this meeting was to ensure that deputies were on board with elevation memo about how to resolve issues we can't resolve in the region. Representatives from most federal caucus agencies were there, as well as Ethan Shenkman - formerly with DOJ and now with EPA.

Bob Perciasepe, EPA's Deputy went through status of elevation memo (circulated to regional PSFC members on 8/6). Talk of putting in timeline but not a lot of folks were excited about that. He agreed to circulate for one more round of edits. Many agencies have signed off on this version to date.

Other issues brought up at the meeting were updates on shoreline armoring issues & HAT, Mud Mountain Dam, a summary of where we are with NRCS and EPA on riparian buffers issues.

When the group went over elevation process there were questions of formality and intent. Will did a good job stating why we need something now, not something hard & fast, and need an operational elevation process.

Bob Dach: hasn't has a chance to debrief internally on this. BIA has a bit of difference of opinion in that they are concerned that tribes can't elevate directly to DC.

Rick said that was a DC decision. The Region proposed it but DC took it out, with the argument that tribes can elevate anytime they want to DC and so they don't need this formalized process. Issue elevation was presented to the tribes back in February, tribes noticed the lack of ability for them to use this process directly, and mentioned it. Dennis and Will said don't let the words get in the way.

Bob Dach: thought tribes would rather have a formal approach that gave a result on a timeline. Didn't want business at usual of complaining to DC and not necessarily seeing a decision.

\*Carrie will follow up with Dennis office to fix FEMA's correct agency name

### **Fish passage barrier work**

Amy Lieb: The team of agencies has been working for over a year to categorize and prioritize passage barriers – Team includes USFS, NPS, JBLM, Corps and USFWS. A USFWS team will conduct field work this summer to figure out how much habitat is being blocked, what kind of species are going to be impacted. Amy has been on a detail and USFWS has stepped in to lead this.

The total count of barriers has gone down. 80 federal barriers. May go up a little more. Navy has put out a contract to inventory one of last rail lines. Will be able to do a complete inventory with info they have due to many agencies pitching in on budget and helping with accommodations. There may be a gap on Forest Service lands but will keep working.

Team will get a research permit to do data collection on North Cascades national park. Needed help from Park Service on Rainier.

Frank Shipley: Curious if this is just looking at culverts or also other things like dikes and bridges, including under I5. Team is just looking at roads and assets that federal governments owns and has jurisdiction over - I5 is owned by State. They are looking at upstream migration barriers. A great next step could be connectivity or dike and berm issues. Looking at making a list similar to state culvert list to compare apples to apples

### **Shoreline Armoring**

Carrie Byron: EPA, NOAA and the Corps have been working to address how shoreline armoring is permitted through the Corps 404 regulatory program. The team agreed to put together a workgroup to assemble scientific information that could potentially support altering the Corps' regional general condition prohibiting Nationwide Permits on the west side of Puget Sound. Work on this effort was stalled pending some conversations with tribes who were concerned that EPA/NOAA were backing away from previous assertions that they wanted no more shoreline armoring in Puget Sound. Agencies still feel like protecting some key areas is worth moving forward on, and more progress may be made in the future.

Carrie will be updating the workplan and identifying members of the workgroup and potential sources of data, with the goal of pulling together a meeting in the fall to start moving forward on this.

Mitigation strategies were also discussed and are pending – this could be a good next step for the workgroup.

### **Corps Jurisdictional Issue**

Elizabeth Babcock: The last conversation with General Kem was in February – where the idea of moving jurisdiction from MHHW to HAT was presented. NOAA thinks there would be benefits to moving jurisdiction. Corps disagreed due to legal and social equity concerns. NMFS believes it is a good idea to move in that direction. Tribes think so too. No meeting on the books with the Corps to talk this over again. New Colonel has not been briefed on this yet. No movement but issue isn't dead. Need more info to move forward.

Elizabeth spent a full day boat tour with OMB examiner. NOAA wanted to show what happens with enforcement dollars. There was a significant armoring installation on Blakeley Island - WDFW noticed the illegal fill had been put in, started an investigation. Landowner was Wright Runstad.

Enforcement agencies went out to look at property, there has been mitigation and correction. No ESA violation because armoring went in above MHHW. Therefore no ability for NMFS to go to Corps and say there had been an ESA violation. If applicant had been permitted federally could have done ESA review and likely violation, so section 9 criminal penalties could have been brought.

Nobody has raised issues with Col Buck as yet but if this does go forward people will be made aware beforehand. The biggest sticking point for the Corps is the national implications.

### **Coordinated Investments**

Elizabeth Babcock: a paper on this topic has been circulated to federal caucus. It has been discussed a lot in context of floodplain management. Was introduced at Deputies meeting and then was a meeting with Tribes on the concept.

Tribes gave 3-4 pages of questions on concept. They are interested but not on board yet. Not enough detail to give guarantees that this would work. In addition to adding more detail, there was a meeting 2 days ago with NRCS, NMFS, Swinomish, Mike Grayum, OMB administrators. This issue came up again, no great detail gone into, Swinomish raised same issues. Didn't say much other than we want to see what details are.

Sherre has been trying to participate and help build approaches. NRCS trying to get on board, was good for HQ to understand better.

### **Updates from PSFC Members**

Olton Swanson: PSNERP is moving again. The Corps has an approved tentatively selected plan for 11 sites encompassing 4000 acres of habitat at a cost of \$1.1 billion. Public review of draft EIS will happen in September. That is moving again, asking for opportunities for feedback and support for projects.

Skokomish GI – recently achieved agency decision milestone, will look to construct in FY16 or 17.

Curtis Tanner: Ken Berg was manager of FWS ecological services in WA state for 13 years. Has taken a position as ARD in Region 8. New manager will be selected in coming months. Tom McDowell will be acting in Ken's absence so Curtis is sitting in.

Fish Passage Barriers – During Amy's presentation on fish passage barriers she emphasized consistency with WDFW guidelines. Curtis wanted to highlight importance of that. USFWS crews have been trained by WDFW crews on data, protocols, etc. That will ensure info is consistent with state info. Will allow them to prioritize barriers consistently with state.

In the last legislative session WDFW was given authority to establish a fish passage barrier removal board similar to SRF board.

Amy Lieb: In response to a question from Rick about the Interagency Agreement with EPA, Amy reported that the provided money to implement barrier correction on the ground. The total is \$1M. Vast majority is going to be spent replacing a barrier on a Snohomish County road that allows fish back on to FS land. The barrier blocks 5 miles of habitat. SnoCo has been working on this for many years. Also correcting 3 barriers in Mt. Rainier NP on the Cascade River road and one in ONP as well. Projects have been on books for years but haven't had a funding source. Those projects will make it possible to do future work upstream.

Frank Shipley – USGS has been in contact with the Interior Secretary's office. Interior Justice team has interest in TRAR. Will be out next week – Letty Belin will be here. Will meet with 4 tribes on Monday and USGS regional office on Tuesday.